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Sun Microsystems, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.,

Plaintiff – Counterclaim
Defendant,

v.

SUN MICROSYSTEMS, INC.,

Defendant -
Counterclaimant.

CASE NO. 3:07-CV-06053 EDL (JCS)

**DECLARATION OF CHRISTINE K.
CORBETT IN SUPPORT OF SUN
MICROSYSTEMS, INC.'S REPLY IN
SUPPORT OF MOTION FOR PARTIAL
STAY OF THE CASE PENDING
REEXAMINATION OF UNITED STATES
PATENT NOS. 5,819,292, 6,857,001 AND
6,892,211**

**Date: May 13, 2008
Time: 2:00 p.m.
Courtroom: E, 15th Floor
Hon. Elizabeth D. Laporte**

I, Christine K. Corbett, declare as follows:

1. I am an attorney at law duly licensed to practice before this Court and am a partner with the law firm of DLA Piper US LLP, attorneys for Sun Microsystems, Inc. ("Sun"). I have personal knowledge of the matters set forth herein and, if called as a witness, I could and would competently testify thereto.

2. Neither Sun nor Network Appliance, Inc. ("NetApp") has produced any

1 documents (other than those required to be produced pursuant to the Patent Local Rules).

2 3. NetApp's counsel has been unable to commit to a date certain for the production
3 of documents and has indicated during recent conference calls that it is unsure whether NetApp
4 can even begin a rolling document production on May 9, 2008.

5 4. No depositions have been noticed or taken.

6 5. I have discussed with NetApp's counsel taking a few depositions during the first
7 two weeks of May; however, NetApp's counsel was unable to commit to scheduling any
8 depositions because it was unsure when NetApp would be able to produce documents on behalf
9 of the deponents in response to Sun's document requests.

10 6. The requested depositions have nothing to do with United States Patent Nos.
11 5,819,292, 6,857,001 and 6,892,211.

12 7. NetApp has served only one set of interrogatories and one set of requests for
13 production of documents in the above-titled action.

14 8. While NetApp served its own preliminary infringement contentions three weeks
15 early, all disclosures are now on the same, non-expedited track.

16 9. Sun asked to have this Court resolve the claims at issue because this Court is the
17 appropriate venue, not as part of some purported plan to accelerate the resolution of this case.
18 Attached hereto as **Exhibit A** is a true and correct copy of the Agreed Motion to Transfer filed by
19 Sun and NetApp on or about November, 2007.

20 10. Attached hereto as **Exhibit B** is a true and correct copy of a NetApp document
21 titled "ZFS Best Practices with NetApp" which I printed from NetApp's public website on or
22 about May 5, 2008 at <http://media.netapp.com/documents/tr-3603.pdf>.

23 I declare under penalty of perjury under the laws of the United States of America that the
24 foregoing is true and correct. Executed on May 5, 2008 in East Palo Alto, California.

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27 Christine K. Corbett
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